

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of IMANI AMI'R NICHOLE
HELMS, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

TASHINA MARIE CHERRY,

Respondent-Appellant,

and

ROBERT LEE HELMS,

Respondent.

UNPUBLISHED

April 29, 2008

No. 281186

Muskegon Circuit Court

Family Division

LC No. 07-036126-NA

Before: Bandstra, P.J., and Fitzgerald and Markey, JJ.

PER CURIAM.

Respondent-appellant (hereinafter respondent) appeals as of right from the trial court order terminating her parental rights to the child under MCL 712A.19b(3)(l). We affirm.

The Ohio courts terminated respondent's parental rights to three other children on May 12, 2006. The Ohio court orders state that respondent had failed to resolve the two issues, her substance abuse and her lack of stable housing, that had resulted in the placement of her children in the court's custody in January 2004. The orders also found that respondent had failed to visit the children. On June 13, 2007, respondent gave birth to Imani in Michigan and, five days later, petitioner filed a petition seeking termination of respondent's parental rights, alleging that respondent's parental rights to other children had been terminated, she lacked stable housing, she had used cocaine, and she had an outstanding bench warrant on a domestic violence charge. At the termination trial, the Ohio court orders terminating respondent's parental rights to her other children were admitted into evidence, and respondent admitted that she tested positive for marijuana on June 18, 2007, after Imani's birth. Although respondent testified that she now had stable housing with her father, had procured part-time employment, participated in a drug treatment program and counseling, and had cleared up the outstanding warrant, the protective

services worker who investigated the instant case testified that respondent had failed to resolve the issues that resulted in the termination of her parental rights to her children in Ohio.

On appeal, respondent argues that the trial court clearly erred in terminating her parental rights under § 19b(3)(i). However, the trial court relied upon subsection (l), not subsection (i), in terminating respondent's parental rights. Since respondent did not challenge termination under the sole ground cited by the trial court, and because the evidence clearly established subsection (l), respondent's claim on appeal challenging the statutory grounds for termination must fail.

Respondent also argues that termination was not in Imani's best interests because respondent (1) had remedied the issues that had resulted in termination of her parental rights in Ohio, (2) was older and more mature, and (3) had bonded with the child while the child was in her womb. Respondent had had two children taken into the Ohio court's temporary custody in January 2004 and a third was taken into the Ohio court's custody upon her birth in September 2004. Respondent claimed that she came to Michigan shortly after the children were taken into the Ohio court's custody because she had more support from family and friends in Michigan. Although she claims she intended to continue to comply with services while in Michigan, the Ohio court found that respondent had failed to address the significant substance abuse problems and housing issues that had brought the children into the court's care. Despite respondent's testimony that she consistently kept in contact with the Ohio caseworkers, the Ohio court found that respondent had abandoned the children, having failed to visit or support them.

Although respondent claims that she had remedied the problems that resulted in the termination of her parental rights by the Ohio courts by the August 28, 2007, termination trial concerning Imani, the evidence does not support respondent's claims. Respondent admitted she tested positive for marijuana use on June 18, 2007, just after Imani's birth. She was participating in a drug treatment program, counseling, and parenting classes as of the termination trial but became involved in those programs only after Imani's birth and removal from her care. She was living with her father as of the termination trial, but admitted that she did not have stable housing during the three months preceding the trial. Thus, while respondent had made some effort to address the issues that had brought her other children into the Ohio court's custody, she did so only *after* Imani's birth. As of the date of the filing of the termination petition on June 18, 2007, respondent had not resolved any of the issues that had resulted in the termination of her parental rights to her three other children by the Ohio courts. The fact that the children in Ohio had been placed in the Ohio court's custody in 2004 and respondent denied being aware that her parental rights to the children had been terminated in May 2006 further supported the court's finding that "[respondent's] failure to take responsibility for the first three children shocks the Court's conscience." The court also noted that respondent was 22 years old when her parental rights to the children in Ohio were terminated so that her argument that she was a young teenager, while relevant when she first went to Ohio, did not excuse her failure to care for her children. In light of the foregoing evidence, the trial court did not clearly err in concluding that termination of respondent's parental rights was not contrary to Imani's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Thus, the trial court did not err in terminating respondent-appellant's parental rights to the child.

Affirmed.

/s/ Richard A. Bandstra
/s/ E. Thomas Fitzgerald
/s/ Jane E. Markey